



General Assembly

February Session, 2010

Raised Bill No. 155

LCO No. 792

00792_____KID

Referred to Committee on Select Committee on Children

Introduced by:
(KID)

***AN ACT CONCERNING THE EDUCATIONAL PLACEMENT OF
CHILDREN IN THE CARE AND CUSTODY OF THE DEPARTMENT OF
CHILDREN AND FAMILIES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2010*) (a) For purposes of this
2 section:

3 (1) "Child" means (A) any school-aged child, (B) any child ages three
4 to five, inclusive, who has been identified as eligible for special
5 education pursuant to sections 10-76a to 10-76d, inclusive, of the
6 general statutes or under the Individuals with Disabilities Education
7 Act, 20 USC 1400 et seq., as amended from time to time, or (C) any
8 child ages three to five, inclusive, who has been referred to a planning
9 and placement team to determine eligibility for special education and
10 related services pursuant to sections 10-76a to 10-76d, inclusive, of the
11 general statutes or under said Individuals with Disabilities Education
12 Act, who is placed in out-of-home care by the commissioner pursuant
13 to an emergency order of temporary custody or an order of
14 commitment, in accordance with section 46b-129 of the general
15 statutes.

16 (2) "School of origin" means the school that the child is attending at
17 the time the department places the child in out-of-home care or the
18 school the child is attending at the time of any change of out-of-home
19 care, by the commissioner.

20 (3) "Receiving school" means the school that a child is attending
21 following a school placement decision by the department in cases in
22 which remaining in the school of origin is determined not to be in the
23 child's best interests.

24 (4) "School placement decision" means a decision made by the
25 department regarding the school in which the child will attend while
26 the child is in out-of-home care and does not refer to the provision of a
27 free, appropriate public education to children eligible for special
28 education.

29 (5) "Department" means the Department of Children and Families.

30 (6) "Commissioner" means the Commissioner of Children and
31 Families.

32 (b) (1) Whenever a child is placed in out-of-home care by the
33 department pursuant to an emergency order under subsection (e) of
34 section 17a-101g of the general statutes, or an order of temporary
35 custody or an order of commitment under section 46b-129 of the
36 general statutes, and at any subsequent change in out-of-home care,
37 any such child may, if it is in the best interests of the child, as
38 determined pursuant to subdivision (3) of this subsection, continue to
39 attend his or her school of origin. Such child shall continue to be a
40 resident of the school district in which such school is located during
41 such attendance for purposes of chapters 168 to 170, inclusive, 172 and
42 173 of the general statutes. The board of education for the school of
43 origin shall continue to provide free school privileges to the child.

44 (2) Every decision by the department to place a child into out-of-
45 home care under the provisions of subsection (e) of section 17a-101g

46 and section 46b-29 of the general statutes, and any subsequent change
47 in out-of-home care, shall take into account the appropriateness of the
48 school setting and the proximity to the school of origin.

49 (3) (A) Whenever a child is placed in out-of-home care by the
50 department pursuant to an emergency order under subsection (e) of
51 section 17a-101g of the general statutes, or an order of temporary
52 custody or an order of commitment under section 46b-29 of the general
53 statutes, and at any subsequent change in out-of-home care, the
54 department shall immediately determine whether it is in the best
55 interests of the child to remain in the school of origin. There shall be a
56 presumption that it is in the child's best interests to remain in the
57 school of origin. The department shall provide written notice of its
58 decision to the parties not later than three business days. Such notice
59 shall identify the factors that form the basis of the department's
60 decision. Any party may object to the department's decision not later
61 than three business days after receipt of such notice. The child shall
62 remain in the school of origin until the time for objection has passed
63 and until any disagreement is resolved, except as provided in
64 subparagraph (C) of this subdivision. The child shall be transported to
65 the school of origin pursuant to subsection (c) of this section during
66 any such disagreement except as provided in subparagraph (C) of this
67 subdivision. Such disagreements shall be expeditiously resolved. The
68 department shall bear the burden of proof that the school placement
69 decision is in the child's best interests.

70 (B) The school placement decision may be revisited at any time
71 during the child's out-of-home care, if circumstances change, in order
72 to ensure that the school placement decision remains in the best
73 interests of the child. Notice of any subsequent decision to change the
74 child's school placement decision shall be provided in accordance with
75 subparagraph (A) of this subdivision. Any disagreement with a school
76 placement decision made pursuant to this section may be challenged
77 through the dispute resolution process for treatment plans. The child
78 shall remain in the school of origin until any such disagreement is

79 resolved, except as provided in subparagraph (C) of this subdivision
80 and shall be provided with transportation in accordance with
81 subsection (c) of this section.

82 (C) If at any time the department determines that continued
83 placement in the school of origin will jeopardize the child's immediate
84 physical safety, the department may immediately remove the child
85 from the school and shall notify the child's attorney, parents, guardian
86 ad litem and surrogate parent, if any, by phone or by facsimile on the
87 same business day. Any party may object to the decision to change the
88 child's school placement not later than three business days after receipt
89 of such notice. If any party objects to the change in school placement,
90 the department shall hold an administrative hearing not later than
91 three business days after the objection.

92 (c) (1) If it is determined that it is in a child's best interests to remain
93 in his or her school of origin, the department and the board of
94 education for such school of origin shall collaborate on a
95 transportation plan for such child from the town in which the child is
96 placed to such school of origin. The department shall be responsible
97 for any additional or extraordinary cost of such transportation beyond
98 that to which the child would otherwise have access. The department
99 shall maximize federal reimbursements under Title IV-E of the Social
100 Security Act, as amended, for costs of transporting Title IV-E eligible
101 children. The department and the board of education for the school of
102 origin shall consider cost-effective, reliable and safe transportation
103 options including, but not limited to, reimbursing school districts for
104 use of existing transportation options and reimbursing foster parents
105 and relative caregivers who provide transportation.

106 (2) If it is not in the best interests of the child to attend the school of
107 origin, the department shall work with the board of education for such
108 school of origin and the receiving school to ensure immediate and
109 appropriate enrollment and attendance of the child in the receiving
110 school in accordance with the provisions of subsection (e) of section 10-

111 76d of the general statutes. The educational records of the child shall
 112 be provided by the school of origin to the receiving school, in
 113 accordance with the federal Fostering Connections to Success and
 114 Increasing Adoptions Act of 2008, Public Law 110-351. Upon
 115 notification by the department of a decision to change a child's school
 116 placement and notwithstanding section 10-220h of the general statutes,
 117 the school of origin shall transmit by facsimile to the receiving school,
 118 not later than one business day after receipt of such notification, all
 119 essential educational records for the child, including, but not limited
 120 to, the child's individualized education plan and behavioral
 121 intervention plan, if any, and all documents necessary for the receiving
 122 school to determine appropriate class placement and to provide
 123 educational services. The school of origin shall transfer nonessential
 124 records to the receiving school in accordance with section 10-220h of
 125 the general statutes.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>July 1, 2010</i>	New section
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Statement of Purpose:

To ensure that children in foster care remain in the schools they attended prior to removal from their homes whenever remaining in such schools is in the best interests of the child.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]